PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

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PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/JP2004/005715	21.04.2004	22.04.2003

International Patent Classification (IPC) or both national classification and IPC
G11B20/00

Applicant
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1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notifed the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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ATTACHMENT G

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was field, unless otherwise indicated under this item.

   ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

   a. type of material:

   ☐ a sequence listing

   ☐ table(s) related to the sequence listing

   b. format of material:

   ☐ in written format

   ☐ in computer readable form

   c. time of filing/furnishing:

   ☐ contained in the international application as filed.

   ☐ filed together with the international application in computer readable form.

   ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

Box No. II Priority

1. ☒ The following document has not been furnished:

   ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

   ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

   Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	1-40
	No:	Claims	
Inventive step (IS)	Yes:	Claims	1-40
	No:	Claims	
Industrial applicability (IA)	Yes:	Claims	1-40
	No:	Claims	

2. Citations and explanations

see separate sheet

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Reference is made to the following documents:

D1: JP2002109826
D2: EP0813194
D3: US5687191

An automatic translation of D1, supplied by http://aipn2.ipdl.ncipi.go.jp, is annexed to this communication

1) The two reproduction apparatuses of claim 1 are not referred to in the description: only one single reproduction apparatus is disclosed . Claim 1 is therefore not supported by the description as required by Article 6 PCT. In order to carry out a meaningful search, it was construed that the aggregation system only contains one reproduction apparatus (see e.g claim 3).

2) The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 13 15 17 21 22 29 30 is not new in the sense of Article 33(2) PCT.

2.a) Embodiment 1: Claim 13,15 and 17
These claims do not mention any aggregation; and therefore are anticipated by D2: D2 discloses indeed a reproduction apparatus to reproduce main contents from a medium (fig.1), with reproduction control information stored in the medium (CMD), it obtains main contents and the reproduction control information from the medium (fig.1, fig.4C), it judges whether reproduction is permitted or not (col.16-17) and performs reproduction in the former case (col.16-17).

Hence claim 13 is not new.The same objection applies mutatis mutandis to claim 15 and 17.

2.b) Embodiment 3: Claims 21 22 29 30
D1 discloses an aggregation system comprising an aggregation apparatus and a reproduction apparatus
- the aggregation apparatus (units 4 5 8 10 and 11 of fig 2) includes
  a first obtainment unit to obtain a main content (par 40; fig 2, input M of MUX 4)
  a second obtainment unit to obtain sub-content (fig 2, inputs L J C N V of switch 5)
  a third obtainment unit to obtain aggregation judgement information (digital rights

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extraction in unit 10)
a judgement unit (subdata control 8) to judge whether aggregation and recording is permitted or not
a recording unit to aggregate the main and sub contents onto the recording medium (fig.2 MUX4, recorder 11) if aggregation and recording are permitted
- the reproduction apparatus (units 33 37-41 of fig.3) reproduces the main and sub content from the recording medium (fig.3)

Therefore claim 21 is not new.
Claim 22 is directed to an aggregation apparatus having all the features of the aggregation apparatus mentioned in claim 21. As a consequence claim 22, and mutatis mutandis claims 29 and 30, is not new either.

2.c) Embodiment 4: Claims 31 32 39 40
Claim 31 is too broad in the sense that it is covered by any prior art document disclosing the control of main data reproduction through a watermark in auxiliary data, the main and auxiliary data being combined.

D3 discloses indeed an aggregation system comprising an aggregation apparatus and a reproduction apparatus
- the aggregation apparatus includes
a first obtainment unit to obtain a main content (unit 310 of fig 3a, audio and video)
a second obtainment unit to obtain sub-content (fig 3a, auxiliary data 305)
a recording unit (345) to aggregate the main and sub contents onto a medium
- the reproduction apparatus includes
a judgement unit to judge whether reproduction of the main and subdata is permitted or not (fig.3b, copy management unit 380)
a reproduction unit which reproduced the main and subdata when reproduction is permitted (380; col.8,l.39 - col.9, l.45)

Hence claim 31 is not new.
Claim 32 is directed to an reproduction apparatus having all the features of the reproduction apparatus mentioned in claim 31. As a consequence claim 32, and mutatis mutandis claims 39 and 40, is not new either.

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3) The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 1 12 14 16 does not involve an inventive step in the sense of Article 33(3) PCT.

3.a) D1 discloses (see automatic translation) an aggregation system comprising an aggregation apparatus and a reproduction apparatus

- the aggregation apparatus (units 4 5 8 and 11 of fig 2)includes
  - a first obtainment unit to obtain a main content from a first medium (par 40; fig 2, input M of MUX 4)
  - a second obtainment unit to obtain sub-content (fig 2, inputs L J C N V of switch 5)
  - a recording unit to aggregate the main and sub contents onto a second medium (fig.2 MUX4, recorder 11)
- the reproduction apparatus (units 33 37-41 of fig.3) includes
  - a third obtainment unit to obtain the main content from the first medium (fig 3, input of unit 33 when reading original medium)
  - a fourth obtainment unit to obtain reproduction control information for the sub-content
  - a reproduction unit to reproduce the sub content based on the reproduction control information (fig 3, switch 37 receives reproduction permission information from unit 28 and 30)
- the reproduction apparatus reproduces the main and sub content from the second medium (fig.3: it can be alternatively the original medium or a copy)

Claim 1 differs from D1 in that the reproduction control information relates to the main content and not to the subcontent. It would be straightforward for the skilled person to use some reproduction permission information (e.g, as is well known, in the TOC) in order to control the reproduction of the main contents (which is the aim of many of the documents cited in the Search Report), similarly to what is disclosed here for the subcontents. Therefore claim 1 is not inventive.

3.b) Claim 12 differs from D1 in that the aggregation apparatus obtains the reproduction control information from the first medium, it is judged whether reproduction is permitted or not; and in the former case, the reproduction control information is changed on the first medium to indicate that reproduction is not permitted.

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D2 discloses (see passages of the search report) how to check reproduction permission obtained from the original medium and how to update it following a recording of the data onto a target medium. Applying this known method for controlling operations on the main content to the system of D1 would not involve any inventive skill. Hence claim 12 is not inventive.

The same objection applies mutatis mutandis to claim 14 and 16.

4) Dependent claims 2-6 8-9 11 23 25 33-38 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step: see the corresponding passages cited in the International Search Report.